IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1349 OF 2007

Syndicate Overseas Pvt. Ltd. ..Petitioner

versus

The Regional Provident Fund Commissioner & Anr. ..Respondents

Mr. S. C. Naidu i/b. M/s. C. R. Naidu & Co. for the Petitioner.

Mr. M. S. Karnik for the Respondents No.2.

CORAM : D.B. BHOSALE, J.
DATE : 18TH JULY, 2007.

P.C.

1. Heard learned counsel for the parties.

2. This Petition is directed against an Order dated 18.5.2007 passed by the Assistant P.F. Commissioner (C), S.R.O. Kandivali, by which the application for review under Section 7B of The Employees Provident Fund and Miscellaneous Provision Act, 1952 has been rejected on the ground of limitation. The order in the form of letter dated 18.5.2007, reads thus:

" Date:- 18.5.07

To,
M/s. Syndicate Overseas Pvt. Ltd.
95-96, Government Industrial Estate,
Near Hindustan Naka,
Charkop, Kandivali (W),
Mumbai - 400 067

Sub: Application for review under Section 7B in respect of M/S. Syndicate Overseas Pvt. Ltd. Code No. MH/92730.

Sir,

With reference to above subject your review application under section 7B is rejected for the following reasons.

1) The order under section 7A was made on 31/01/07 and your review application under section 7B against the order 7A was submitted by you on 29.03.07 after 45 days.

2) As per the provision contained para 79A of the scheme, no application for review of an order will be entertained in the concerned officer, unless the applicant for review is submitted within 45 days from the date of making such order.

Yours faithfully,
sd/-
ASSISTANT P.F. COMMISSIONER (C)
S.R.O. KANDIVALI"

3. Mr. S. C. Naidu, learned counsel for the Petitioner submitted that an Order under Section 7A

dated 31.1.2007 was in fact received by the Petitioner on 2.3.2007. He produced a certified copy of the Order along with envelope in which Petitioner received the said Order. The envelope clearly shows that it was posted on 28.2.2007 and it was received by the Petitioner on 2.3.2007. The review application was filed on 29.3.2007. It is thus apparent that the review was filed within less than 45 days from the date of receipt of a certified copy of the Order. It is true that under Para 79A of the Scheme, the review has to be filed within 45 days from the date of making such order. When the order was made, admittedly the petitioners were not present and they did not come to know about the order till they received certified copy of the Order on 2.3.2007.

4. In view of the peculiar facts and circumstances of the case and in the interest of justice, I am satisfied that the following order shall meet the ends of justice.

ORDER

. Respondent No.2 shall hear the review application filed by the Petitioner under Section 7B, on merits in accordance with the law as expeditiously as possible and preferably within a period of twelve weeks from the date of receipt of this order without entering into an issue of limitation.

. In view of these directions, the Order dated 18.5.2007 renders ineffective.

. Petition is disposed of in the aforesaid terms.

(D. B. BHOSALE, J.)